

JUL 1987

Dear Sir or Madam:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED]. Prior to this date the organization was a for profit organization.

The purposes for which you are formed are to promote the arts and humanities in the community and to promote the creative and performing arts. You intend to encourage self improvement through education.

Your activities consist of the operation of a school of performing arts, fine arts and gymnastics. Your income is derived from student tuition and fees, rent and donations. Your expenses are for salaries, interest payments, payments of liabilities assigned to the school by the for profit organization and other operational costs.

The incorporators of the organization consist of the former owner of the for profit firm, [REDACTED] and her husband, [REDACTED]. These same persons serve as two of the four officers of the organization.

The assets and liabilities of the for profit organization were turned over to the applicant organization. The liabilities exceeded the assets by \$[REDACTED].

The school apparently trades as the [REDACTED] since its advertisements and brochures are in that name. Likewise the trade name is shown in the newspaper publication of the

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	6/29/87	6/29/87	7/6/87				

organization's combined advertisement and non discriminatory notice policy as to students. Consequently, the school is not known by its legal corporate name in the notice.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations which are organized and operated exclusively for religious, charitable, educational purposes, "no part of the earnings of which inures to the benefit of any private shareholder or individual."

Section 1.501(c)(3)-1(d)(1)(i) of the income tax regulations indicates that an organization may be exempt as an organization described in section 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, educational or prevention of cruelty to children or animals.

Section 1.501(c)(3)-(d)(2)(ii) of the income tax regulations states that an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of this sub paragraph unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly by such private interests.

Revenue Ruling 76-441, Cumulative Bulletin 1976-2, page 147 states that an organization which takes over a school's assets and its liabilities, which exceed the value of the assets and include notes owed to the former owners and current directors of the school, is serving the directors' private interests and is not operated exclusively for educational and charitable purposes.

Based on the information contained above, it is held that your organization does not qualify for exemption under section 501(c)(3) of the Code since your organization is serving the private interests of the former owner of the for profit organization and her husband. It is further held that the organization does not qualify under any other related paragraph of the Internal Revenue Code section 501(c).

[REDACTED]

If you do not accept our finding, we recommend that you request a conference with a member of our Regional office conference staff. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional office, or if you request, at any mutually convenient District office. If we do not hear from you within 30 days of this letter, this determination will become final. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely Yours,

[REDACTED]  
District Director

Enclosure: Publication 892